

EXHIBIT “A”

MONTANARI LAW GROUP, LLC

JOHN J. PISERCHIA 000351982

1 Lower Notch Road
Little Falls, New Jersey 07424
(973) 785-8181
Attorney for Plaintiff

WALTER P. VARGO, JR.)	SUPERIOR COURT OF NEW JERSEY
1164 Allen-Smith Rd.)	LAW DIVISION: PASSAIC COUNTY
Leavittsburg, OH 44430)	
)	DOCKET NO.: PAS-L-
Plaintiff)	
)	
vs.)	
)	Civil Action
D & M TOURS INC.)	
117 East 7 th Street)	COMPLAINT
Patterson, NJ 07524)	AND JURY TRIAL
)	
and)	
)	
JOSE ROMAN)	
PO Box 1082)	
71 Hopper St., Floor 1)	
Patterson, NJ 07544)	
)	
and)	
)	
FEDEX CORPORATION)	
942 S. Shady Grove Rd.)	
Memphis, TN 38120)	
)	
and)	
)	
WILLIAM A. STAUFFER)	
125 Fieldstone Dr.)	
Carlisle, PA 17015)	
)	
Defendants)	

Plaintiff, WALTER P. VARGO, JR., residing at 1164 Allen-Smith Rd., Township of
Leavittsburg, Trumbull County, and State of Ohio, by way of Complaint against the Defendants,
says:

1. The claims which are the subject of this action were originally brought in the United States District Court for the Northern District of Ohio, Eastern Division (Case No. 18-cv-01297) on June 6, 2018. The District Court dismissed the action “without prejudice” on May 7, 2019. Plaintiff then filed a motion to vacate the judgment and to transfer the case to the United States District Court of Eastern Pennsylvania on June 7, 2019, which motion was denied. That denial was appealed to the Sixth Circuit Court of Appeals (Case No. 20-3380) and to the United States Supreme Court (Case No. 20-1701), which finally denied Plaintiff’s Writ of Certiorari on October 4, 2021. Accordingly, this action is now filed in State Court pursuant to the decision of the Superior Court of New Jersey Appellate Division, *Berke v. Buckley Broadcasting Corp.*, 359 N.J.Super. 587, 821 A.2d 218 (2003).

2. This is a negligence action for damages against drivers and owners of a bus that was slowing down due to mechanical problems, a FedEx tractor/semi-trailer that first collided with the bus, and then with Plaintiff’s tractor/tanker on Interstate Route 78 in Lower Saucon Township, Northampton County, Pennsylvania, on June 7, 2016.

3. At all times relevant, Plaintiff WALTER P. VARGO, JR., was employed by L. T. HARNETT TRUCKING, INC., and was injured in the course of and out of his employment, when he was traveling in the farthest left lane of the three westerly bound lanes on Interstate 78 in Lower Saucon Township, Pennsylvania, on June 7, 2016.

4. At all times relevant, Defendant D & M TOURS, INC., is a domestic corporation organized under the laws of the State of New Jersey, and was the owner of a motor-bus-line that was hired by the Wayne Township Board of Education to transport Wayne Valley High School Seniors on a trip to Hershey Park, an amusement park in Pennsylvania on June 7, 2016.

5. At the time and place aforesaid, Defendant JOSE ROMAN is an individual residing in Patterson, New Jersey, and he was the driver operator of the motor bus of Defendant D & M TOURS, INC., and he was acting within the scope of his employment and/or agency with Defendant D & M TOURS, INC., when he was traveling in the middle of the three westerly bound lanes of Interstate 78 in Lower Saucon Township, Pennsylvania.

6. On the aforesaid date, Defendant FEDEX Corporation, a Delaware corporation authorized to do business in New Jersey, was the owner and/or operator of a tractor trailer being operated by Defendant WILLIAM A. STAUFFER, the agent, servant or employee of Defendant FEDEX Corporation, when he was traveling in the right (curb) lane of the three west bound lanes of Interstate 78 in Lower Saucon Township, Pennsylvania.

7. Defendant ROMAN and Defendant STAUFFER did so negligently operate the bus of Defendant D & M TOURS, INC. and the tractor/semi-trailer pf Defendant FEDEX Corporation as to cause and allow them to collide in the right (curb) lane of the three west bound lanes of Interstate 78 in Lower Saucon Township, Pennsylvania.

8. After this first collision between Defendant ROMAN and Defendant STAUFFER, a second collision followed between Defendant STAUFFER and Plaintiff VARGO in the left lane of the three west bound lanes of Interstate 78 in Lower Saucon Township, Pennsylvania.

9. As a result of this collision between Defendant STAUFFER'S tractor/semi-trailer and Plaintiff VARGO'S tractor/tanker, Plaintiff was violently thrown about inside his tanker while desperately trying to prevent it from tipping and spilling its contents on the highway.

10. As a direct and proximate result of the aforesaid negligence of Defendants, Plaintiff VARGO suffered serious and permanent injuries; present and future suffering and great pain; has incurred medical bills in excess of \$75,000.00 for treatment and care; has incurred lost wages in

excess of \$100,000.00; has incurred a worker's compensation lien in the approximate sum of \$110,000.00; and he has been caused, and in the future, will be caused great pain, suffering, mental anguish and medical expenses, all to Plaintiff's great loss and damage.

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally, for damages including but not limited to compensatory damages, costs of suit, interest, and such other relief as the Court deems just and appropriate.

JURY TRIAL DEMAND

Plaintiff hereby demands a trial by jury.

Date: 11/5/21

/s/ John J. Piserchia

Attorney for Plaintiff

TRIAL COUNSEL DESIGNATION PURSUANT TO R. 4:5-1(c)

Kalman Harris Geist, Esq., is hereby designated trial counsel in this matter.

CERTIFICATION PURSUANT TO 4:5-1

I hereby certify that to the best of my knowledge, the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding, that no other action or arbitration proceeding is contemplated, and I am not aware of any other person who should be joined in this matter.

CERTIFICATION OF COMPLIANCE WITH RULE 1:38-7(b)

I hereby certify that confidential personal identifiers have been redacted from document now submitted to the court, and will be redacted from all documents submitted in the future in accordance with rule 1:38-7(b).

RULE 4:5-1 CERTIFICATION

Upon belief and based on information known to the undersigned at the time of the filing of this pleading, it appears that there are no other actions or arbitrations related to this suit which are pending or presently contemplated, and it appears that there are no other persons who should be joined as parties.

Date: 11/4/21

/s/ John J. Piserchia

Attorney for Plaintiff

Civil Case Information Statement

Case Details: PASSAIC | Civil Part Docket# L-003530-21

Case Caption: VARGO WALTER VS ROMAN JOSE

Case Initiation Date: 11/05/2021

Attorney Name: MICHAEL J. MONTANARI

Firm Name: MONTANARI LAW GROUP, LLC

Address: 1 LOWER NOTCH RD

LITTLE FALLS NJ 07424

Phone: 9737858181

Name of Party: PLAINTIFF : Vargo, Walter, P

Name of Defendant's Primary Insurance Company
(if known): Unknown

Case Type: AUTO NEGLIGENCE-PERSONAL INJURY (NON-
VERBAL THRESHOLD)

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

**Do you anticipate adding any parties (arising out of same
transaction or occurrence)?** NO

Are sexual abuse claims alleged by: Walter P Vargo? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

**Use this space to alert the court to any special case characteristics that may warrant individual
management or accelerated disposition:**

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

11/05/2021
Dated

/s/ MICHAEL J. MONTANARI
Signed